

EXHIBIT 4

Fenner, et al., v. News Corporation, et al.

No. 09-cv-9832 (LGS)

Kennedy Declaration, Exhibit 4

Approx. March 2008

Zachary Haberman (“ZH”): You need to, you know, be thinking bigger picture than just the words I am getting out of this. You do a graphic every day. You know, the minute you see this gun, you have got to be thinking, “Well, oh well, they are going to want to blow this out.” And if you see a whole table full of guns, first question should be what – which one of those is [Michael] Oliver’s [one of the police officers accused of shooting Sean Bell]? Which one of those is [Giscard] Isnora’s [another of the officers]?

Ikimulisa Livingston (“IL”): Ok, I am the one that arranged, me and Juliet Papa [radio host, 1010 WINS], we were the ones that arranged – that asked the court if we could take a still photo of the guns. We had no control.

ZH: Kim, it looks like a freezer full of meat. It could be anything. It could be anybody’s guns.

IL: Ok, well.

ZH: I mean, I appreciate you doing that, but then the next step is – that doesn’t, it doesn’t get us all the way there. And what the hell does Juliet Papa need that for?

IL: Oh, I don’t know, but, anyway, she and I were the ones who arranged for the still, you know, for the photographers to come in and take the picture so – I mean, I have no control over how they took the picture, or if they were allowed to take the guns out of the plastic.

ZH: But, but you need to – you do have some control over it. You need to be coordinating with these people. I mean you know, you are the one who knows how important it is that we see these guns and know whose gun is which gun.

I’m not there. I can’t, you know – you need to know this stuff.

IL: Actually no, I really don’t have any control over – over taking the guns out of the plastic. They weren’t even taken out of the plastic.

ZH: I’m not saying take them out of the plastic, but you have a picture of five guns up there – I mean you, you do have control over saying to whoever the pool is, “It’s great that you arranged it,” but you have got to make it clear to them that, “Hey, this is what we’re going to need out of this,” and you should know what you need out of this. I mean the minute you hear that Bell’s – that the gun that killed Sean Bell is being put out there, if it’s thrown in the middle of a lump of five other guns you know, you have got to make it clear to them. You know we’re going to need to know this, which gun it is.

IL: I don't think I – as far as I know, the photographer had no control over moving the guns or anything. I don't think he was able to, to manipulate the guns at all. I think he just when in there and shot what was there. So

ZH: I saw the picture.

IL: I'm sorry.

ZH: I saw the picture. It's crap.

IL: Ok.

ZH: I don't think you are getting my point though. It's that, that you need to be thinking more than just words. You need to be thinking the full package when these things come up.

IL: Ah, I was thinking about the package. I was the one who arranged the photo.

ZH: Kim, please just don't repeat the same thing to me four times. Please, I am trying to make a separate point. Instead of fighting me, which you have been doing for the entire fucking time I have been here, please, don't be so God damn defensive and just listen to what I am telling you.

IL: I'm listening, but I am also trying to respond to what you are telling me.

ZH: You've responded the same way four times. I heard you and I already told you. I appreciate you arranging that, but we needed the next step to be taken. If I am not there, you know, Juan [Arellano, a Post photo editor] is not there, we can't be there to tell you every little thing that, you know, we would want, because we are not there. You need to be thinking, you know, "What are they going to need? Well, I know they are going to want to know exactly which one Oliver's gun is." This – this is basic.

IL: Ok, well you know, I can't tell you anything more than I really had no control beyond arranging for the photo to be taken. And I wasn't in there.

ZH: Uh, alright. We're going to have to work something out here, because you are going to have to stop fighting me. I mean, you've been doing it from day one, and I don't know what happened with you in the past and your relationship with these people here. I have done nothing but try to not fight with you and you are making it pretty damn difficult, just so you know. It's getting boring.

IL: I haven't fought with anybody else. And I'm not fighting with you.

ZH: You are, Kim, you are. I'm sorry. You are. It's – you are. You know, this thing you pulled yesterday with the, you know, "I don't know which story are we talking about." It's, it's just, you know, you knew which story I was talking about. Testing just to test, and, you know, pushing buttons, and you know you are doing it. And, you know, you are not stupid.

IL: I hate to say this, but I'm not pushing buttons, I'm not testing.

ZH: How else am I supposed to see that?

IL: I don't know, but what do you want me to do now?

ZH: Is Helen Peterson get involved in this at all, or is it all this douche bag Ryan, who doesn't seem to have any idea what anybody needs?

IL: Um, actually, Helen's helped me out with stuff. Uh, Kevin's helped out me with stuff. So – but it's just the two of them.

ZH: No, I mean somebody, uh, this guy Ryan really doesn't seem to know what he's doing in terms of what people are going to need. Um, you can't really believe that I'm going to take a tape recording of your – of ABC's pool feed and – what the hell am I supposed to do with that?

IL: Well, you know, technically I can download my –

ZH: [To someone else:] We're having an issue. I saw, I am looking at it right now and this is the conversation I am having with her. Hang, on Kim.

[Livingston is placed on hold]

Sorry, um.

IL: So, I was saying that I do know that my recorder has the capability to download what I've recorded onto a computer.

ZH: Is it clear?

IL: Um, you know, it's okay. It's not that great. It's still fuzzy.

ZH: If it isn't clear – I mean it should be. We don't need a third generation recording for a day old story. This is

IL: Ok, well, what would you like me to do?

ZH: Are we done with all we're going to get of these guns?

IL: Uh, I think so. I think for today, yes.

ZH: It's 4:30, court's not even closed. Uh, Kim. Are we [unintelligible]. Hang on.

[Livingston is placed on hold]

Call Buck Stabler (phon.) and – the judge is definitely not gone. Call Buck Stabler, let him know that what the photographer – what was arranged is just, you know it's not doing

anybody any good, and that the release of information is coming in a really annoying way. You know, the judge has said, everything that goes into evidence will be made available. This is like, you know, Gestapo shit, like you can have it only this way.

IL: Ok, and so, when I call Buck Stabler, exactly how do you want the uh, the gun?

ZH: Hang on.

IL: Hello

ZH: Yeah, we will put everything in the pool if we are allowed to – yeah, yeah we just need to be able to shoot them in the bag individually, instead of as a group so we know all [unintelligible].

IL: Are you talking to me?

ZH: Yes Kim I am talking to you.

IL: I'm sorry, what, what you saying?

ZH: I'm saying we need to get back in there and shoot these, if we can shoot them through the bag, but we need to shoot them individually because this is –

IL: Ok, I'll see if that's something we can do.

ZH: Thank you.